KEVIN V. RYAN (CASBN 118321)
United States Attorney

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U.S. DISTRICT COURT
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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

CR 03 20038

UNITED STATES OF AMERICA,	No. CR-
Plaintiff,	VIOLATIONS: 18 U.S.C. §§ 1832(a)(1), (a)(2), (a)(3), and
v.	(a)(4) – Theft of Trade Secrets; 18 U.S.C. § 1030(a)(4) – Computer Fraud
PATRICK J. MURPHY,	SAN JOSE VENUE
Defendant.	

INDICTMENT

The Grand Jury charges:

BACKGROUND INFORMATION:

At all times relevant to this Indictment:

1.   Jasmine Networks, Incorporated ("Jasmine"), San Jose, California, was a company engaged in the business of developing and producing high-speed, multi-service optical switches for computer networks. Jasmine utilized "rtl" code (a computer language used in chip design), in which to write chip features, such as "tapbuf," and, "sxbar." These items were included in Jasmine products that were sold and shipped, and intended to be sold and shipped, in interstate and foreign commerce.

2.   Silicon Wave Corporation ("Silicon Wave"), San Diego, California, was a company

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1   engaged in the business of designing and producing radio frequency systems on-chip for use in

2   wireless computer systems. These items were included in Silicon Wave products that were sold and

3   shipped, and intended to be sold and shipped, in interstate and foreign commerce.

4   3.   Defendant PATRICK J. MURPHY was employed by Silicon Wave from December

5   1, 1998, to March 24, 2000, and was employed by Jasmine from April 1, 2000, to September 12,

6   2001.

7   <u>COUNT ONE</u>: (18 U.S.C. §§ 1832(a)(1) & (a)(4))

8   4.   On or about September 12, 2001, in the Northern District of California, the defendant

9   PATRICK J. MURPHY,

10   with intent to convert a trade secret belonging to Jasmine, to the economic benefit of someone other

11   than the owner thereof, which trade secret was related to and included in a product

12   that was produced for and placed in interstate and foreign commerce, did steal and without

13   authorization appropriate, take, carry away, and conceal such information, and attempt to do so,

14   intending and knowing that his act would injure Jasmine.

15   5. Specifically, defendant PATRICK J. MURPHY knowingly downloaded trade secrets

16   from Jasmine's computer system, copied them onto his work desktop computer, compressed the

17   computer files containing the trade secrets, and then attempted to e-mail them, as attachments, to

18   his personal email account. The trade secrets included "rtl" code known as "tapbuf" and "sxbar."

19   All in violation of Title 18, United States Code, Sections 1832(a)(1) & (a)(4).

20   <u>COUNT TWO</u>: (18 U.S.C. §§ 1832(a)(2) & (a)(4))

21   6.   On or about September 12, 2001, in the Northern District of California, the defendant

22   PATRICK J. MURPHY,

23   with intent to convert a trade secret belonging to Jasmine to the economic benefit of someone other

24   than the owner thereof, which trade secret was related to and included in a product that was produced

25   for and placed in interstate and foreign commerce, did copy, duplicate, download, and replicate such

26   information without authorization, and attempt to do so, intending and knowing that his act would

27   injure Jasmine.

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7.   Specifically, defendant PATRICK J. MURPHY knowingly downloaded trade secrets from Jasmine's computer system, copied them onto his work desktop computer, compressed the computer files containing the trade secrets and then attempted to e-mail them, as attachments, to his personal email account.   The trade secrets included "rtl" code known as "tapbuf" and "sxbar."

All in violation of Title 18, United States Code, Sections 1832(a)(2) & (a)(4).

COUNT THREE: (18 U.S.C. §§ 1832(a)(2) & (a)(4))

8.   On or about September 12, 2001, in the Northern District of California, the defendant

PATRICK J. MURPHY,

with intent to convert a trade secret belonging to Jasmine to the economic benefit of someone other than the owner thereof, which trade secret was related to and included in a product that was produced for and placed in interstate and foreign commerce, did alter such information without authorization, and attempt to do so, intending and knowing that his act would injure Jasmine.

9.   Specifically, defendant PATRICK J. MURPHY knowingly altered trade secrets in a Jasmine proprietary document titled "Scalable Unified Packet Switch Fabric Architecture Specification," belonging to Jasmine, including removing and obscuring the label stating "Jasmine Proprietary and Confidential," and replacing it with a label stating "CoolCom Proprietary and Confidential."

All in violation of Title 18, United States Code, Sections 1832(a)(2)& (a)(4).

COUNT FOUR: (18 U.S.C. §§ 1832(a)(3) & (a)(4))

10.   On or about September 12, 2001, in the Northern District of California, the defendant

PATRICK J. MURPHY,

with intent to convert a trade secret belonging to Jasmine to the economic benefit of someone other than the owner thereof, which trade secret is related to and included in a product that is produced for and placed in interstate and foreign commerce, did possess such information knowing it to have been stolen, appropriated, obtained, and converted without authorization, and attempt to do so, intending and knowing that his act would injure Jasmine.

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11. Specifically, defendant PATRICK J. MURPHY knowingly possessed trade secrets belonging to Jasmine on his work desktop computer. The trade secrets include "rtl" code known as "tapbuf" and "sxbar."

All in violation of Title 18, United States Code, Sections 1832(a)(3) & (a)(4).

COUNT FIVE: (18 U.S.C. § 1030(a)(4))

12. The factual allegations contained in paragraphs 1 through 11 are realleged and incorporated herein by reference as if set forth in full.

13. On or about September 12, 2001, in the Northern District of California, the defendant

PATRICK J. MURPHY

did knowingly and with intent to defraud access a protected computer without authorization and in a manner that exceeded authorized access, and by means of such conduct furthered the intended fraud and obtained something of value, to wit: "rtl" code known as "tapbuf" and "sxbar."

All in violation of title 18, United States Code, Section 1030(a)(4).

COUNT SIX: (18 U.S.C. §§ 1832(a)(3) & (a)(4))

14. On or about September 12, 2001, in the Northern District of California, and elsewhere, the defendant

PATRICK J. MURPHY,

with intent to convert a trade secret belonging to Silicon Wave to the economic benefit of someone other than the owner thereof, which trade secret was related to and included in a product that was produced for and placed in interstate and foreign commerce, did possess such information knowing it to have been stolen, appropriated, obtained, and converted without authorization, and attempt to do so, intending and knowing that his act would injure Silicon Wave.

15. Specifically, defendant PATRICK J. MURPHY knowingly possessed trade secrets belonging to Silicon Wave on his work laptop computer. The trade secrets included those contained within the following seven documents found on the defendant's laptop computer:

A) Simulation Environment Specification

B) SiW020 Controller Spec

C) USB Interface Specification

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D)   Voice Accelerator Spec

E)   SmartWave Controller Specification

F)   SmartWave Controller Specification

G)   Bluetooth Controller Specification

All in violation of Title 18, United States Code, Sections 1832(a)(3) & (a)(4).

COUNT SEVEN: (18 U.S.C. §§ 1832(a)(2) & (a)(4))

16.   On or about September 12, 2001, in the Northern District of California, and elsewhere, the defendant

PATRICK J. MURPHY,

with intent to convert a trade secret belonging to Silicon Wave to the economic benefit of someone other than the owner thereof, which trade secret was related to and included in a product that was produced for and placed in interstate and foreign commerce, did alter such information without authorization, and attempt to do so, intending and knowing that his act would injure Silicon Wave.

17.   Specifically, defendant PATRICK J. MURPHY knowingly altered trade secrets in a document titled, "SmartWave Controller Specification," belonging to Silicon Wave, including removing and obscuring the labels stating, "Silicon Wave," and, "Confidential Internal Use Only," and replacing them with a label stating, "CoolComm Networks Confidential."
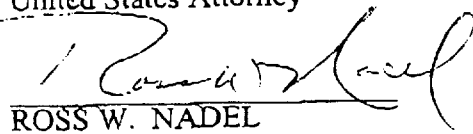
All in violation of Title 18, United States Code, Sections 1832(a)(2) & (a)(4).

DATED: APRIL 2, 2003.   A TRUE BILL.

                                             FOREPERSON

KEVIN V. RYAN
United States Attorney

ROSS W. NADEL
Chief, San Jose Branch

(Approved as to form:
                    AUSA MATTHEW A. PARRELLA

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